IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)
THURSDAY, THE TWENTY FOURTH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6008 of 2005

Between:

1. Aman Abdul Wahid Ali, S/o. Sri Abdul Wahid Ali, Minor,
represented by his father and Natural Guardian Sri Abdul

Wahid Ali through GPA Holder Mohd. Afzal,
S/o. Sri Mohd. Hanif, aged about 48 years, Occ : Business,

H.No. 10-1-1190/2, A.C. Guards, Hyderabad.
2. Imran Abdul Wahid, S/o. Sri Abdul Wahid Ali, Minor,
represented by his father and Natural Guardian Sri Abdul

Wahid Ali through GPA Holder Mohd. Afzal,
S/o. Sri Mohd. Hanif, aged about 48 years, Occ : Business,

H.No. 10-1-1190/2, A.C. Guards, Hyderabad.
3. Ameen Abdul Whaid Ali, S/o. Sri Abdul Wahid Ali, Minor,
represented by his father and Natural Guardian Sri Abdul

Wahid Ali through GPA Holder Mohd. Afzal,
S/o. Sri Mohd. Hanif, aged about 48 years, Occ : Business,

H.No. 10-1-1190/2, A.C. Guards, Hyderabad.

..... PETITIONERS

AND

The Municipal Corporation of Hyderabad, rep by its

Commissioner, Tankbund, Hyderabad.

.....RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue a Writ, Order or Direction, more particularly in the nature of a Writ of Mandamus declaring the action of the Respondent in not receiving or considering the application of the petitioners' House Nos. 10-1-435, 10-1-437 to 440 and 10-1-448 to 455, admeasuring 1020 Sq. Yards, situated at Chintalbasti, Khairatabad (Circle IV), Hyderabad, by insisting on the production of 'No Objection Certificate' from the Collector, Hyderabad, is illegal, arbitrary, unconstitutional and contrary to law and consequently direct the Respondent to receive and consider the Application

of the petitioners for the construction in the said property without insisting the 'No Objection Certificate' and issue the sanction for the construction of the building in the said property after verification of the documents.

Counsel for the Petitioner: MR.G.UDAYA BHASKARA RAO

Counsel for the Respondent: MR.RAMA RAO GHANTA

The Court made the following :

O R D E R :

This writ petition is filed seeking a writ of Mandamus declaring the alleged action of the respondent in not receiving or considering the applications of the petitioners seeking building permission in respect of the petitioners' House Nos.10-1-435, 10-1-437 to 440 and 10-1-448 to 455, admeasuring 1020 Sq. yards, situated at Chintalbasti, Khairatabad (Circle IV), Hyderabad, by insisting on the production of 'No Objection Certificate' from the District Collector, Hyderabad, is arbitrary and illegal.

2. Learned counsel for the petitioners states that the issue involved in this writ petition is squarely covered by the decision of this Court in ***HYDERABAD POTTERIES PRIVATE LIMITED v. DISTRICT COLLECTOR, HYDERABAD*** wherein it has been held as under:

> "The Commissioner is required to make pragmatic assessment of the material available on record and decide the question of prima facie title and lawful possession of the applicants. The applications for grant of permission cannot be rejected solely on the basis of TSLR entries. After all, the decision to grant permission itself would not confer any title upon the applicant, nor it would take away the rights of the objection(s) whether the Government or any individual, for asserting their right, title and interest in the land in respect of which permission has been granted and dispute the title in any manner known to law. Similarly, the Commissioner is not entitled to decide any dispute questions of title or the ownership. All that the Commissioner required to do is to find out prima facie title and lawful possession of the applicant and obviously such consideration is confined to only for the purpose of granting permission and nothing more."

The learned counsel also states that the Writ Appeal No.1096 of 2001 filed against

the said decision was disposed of by the Division Bench observing that the Commissioner while acting under Section 429 (1) (a) of the Hyderabad Municipal Corporation Act, read with relevant building bylaws acts as a statutory authority and required to make decision on relevant material and facts and it is not legally permissible for such authority to base its decisions only on one piece of relevant material and to exclude other relevant material.

3. The learned standing counsel appearing for the respondent-Corporation does not dispute the above legal position.

4. Accordingly following the said decisions, the writ petition is disposed of with a direction to the respondent to consider the applications of the petitioners in the light of the above decisions and pass appropriate orders, in accordance with law.

5. The writ petition is accordingly disposed of. No order as to costs.

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G.ROHINI, J.

Dated: 24th March, 2005.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Commissioner, Municipal Corporation of Hyderabad,

Tankbund, Hyderabad.

2. 2 CD copies

*Form-NIC-OGS/WP{**RLD**}*